UNITED
NATIONS

AT

Administrative Tribunal

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20 November 1992

ORIGINAL: ENGLISH

ADMINISTRATIVE TRIBUNAL

Judgement No. 585

Case No. 516: PAPPAS

Against: The Secretary-General
of the United Nations

THE ADMINISTRATIVE TRIBUNAL OF THE UNITED NATIONS,

Composed of Mr. Samar Sen, Vice-President, presiding; Mr. Ioan Voicu; Mr. Mikuin Leliel Balanda;

Whereas, on 16 November 1991, Anna Mamalakis Pappas, a former staff member of the United Nations Institute for Training and Research, hereinafter referred to as UNITAR, filed an application in which she requested, under article 12 of the Statute of the Tribunal, the revision and correction of Judgement No. 500, rendered by the Tribunal on 9 November 1990;

Whereas the Applicant's pleas read, in part, as follows:

> "Applicant respectfully requests comprehensive revision of the Judgement to correct/explain/reconcile pervasive and inextricably embedded arithmetical and other errors; misstatements, wrong assumptions and premises; incongruities, irreconciliabilities, slips and omissions, gaps/lacunae in legal reasoning and adjudication; omissions involving disregard for precedent and for fundamental principles of substantive and procedural law, including black-letter law, incompleteness of relief, and failure to apply equity and dispense basic justice, all of which are, and cannot but be, accidental and inadvertent, and all of which implicate the institutional integrity of the Tribunal; and to clarify, restate and establish/hold (or explain its failure to do so) ..."

Whereas the Respondent filed his answer on 6 December 1991, in which he argued that the application for revision was not receivable by the Tribunal as it had not been submitted within the time-limit of one year from the date of the Judgement for which revision was sought, and that even if it had, the application was "in reality an attempt to re-open matters finally adjudicated upon by the Tribunal in Judgement No. 500";

Whereas the Applicant filed written observations on 30 July and 11 September 1992 and resubmitted a summary of her pleas on 26 October 1992;

On 16 November 1991, the Applicant filed with the Tribunal the application referred to earlier.

The Tribunal, having deliberated from 26 October to 20 November 1992, now pronounces the following judgement:

I. By her application of 18 November 1991, the Applicant asked the Tribunal for a revision of Judgement No. 500, dated 9 November 1990, transmitted to her on 16 November 1990. The Applicant was specifically advised by the Secretariat of the Tribunal that the one-year statutory period for the filing of a request for revision runs from the actual receipt of a copy of the judgement by the party concerned. Since the date of the letter transmitting Judgement No. 500 to the Applicant was 16 November 1990 and since 16 November 1991, fell on a Saturday, the Tribunal finds that the application filed on Monday, 18 November 1991, was on time.

II. The application seeks to obtain revision and correction of Judgement No. 500, under article 12 of the Statute of the Tribunal which reads as follows:

> "The Secretary-General or the applicant may apply to the Tribunal for a revision of a judgement on the basis of the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgement was given, unkown to the Tribunal and also to the party claiming revision,

always provided that such ignorance was not due to negligence. The application must be made within thirty days of the discovery of the fact and within one year of the date of the judgement. Clerical or arithmetical mistakes in judgements, or errors arising therein from any accidental slip or omission, may at any time be corrected by the Tribunal either of its own motion or on the application of any of the parties."

III. Regarding requests for revision, the Tribunal held in Judgement No. 177, Fasla (1973), para. VI, that article 12 of its Statute "makes it possible to challenge a judgement which was given on the basis of erroneous or incomplete facts, provided that the facts invoked by the party claiming revision were unknown to the Tribunal and to that party when the judgement was given and that these facts are of such a nature as to be decisive factors."

IV. In the present case, the Applicant seeks revision of Judgement No. 500 and, at the same time, requests the Tribunal to rectify certain alleged errors and omissions of fact, alleged mistakes of law and allegedly erroneous assumptions contained in the judgement. In her conclusion to the written observations on the Respondent's answer, the Applicant asks the Tribunal "to re-examine the case in its entirety and to grant relief as requested in the pleas set forth in the application, and to grant appropriate interest on any awards made..."

V. The Tribunal wishes to comment on specific features of the Applicant's pleas. The Applicant made considerable efforts to collate numerous "matters of a predominantly factual nature" and prepared her case with assiduity. She submitted an application which extends to 49 pages, to which were added 18 pages of written observations on the Respondent's answer. Nevertheless, the Tribunal finds that the main purpose of the pleas submitted by the Applicant is merely to reargue issues involved in the proceedings which led to Judgement No. 500.

VI. In this context, the Tribunal recalls its views as expressed in Judgements No. 497, Silveira (1990), para. XV, and No. 503, Noble (1991),

para. II, that "attempts to re-argue issues already decided by judgement ... and which are res judicata" are considered to be "improper" and an "abuse" of the Tribunal's procedure.

VII. In addition, the Tribunal notes that the Applicant requested review of Judgement No. 500 by the Committee on Applications for Review of Administrative Tribunal Judgements, which considered the Applicant's case on 12 February 1991. The Committee decided, without a vote, that there was not a substantial basis for the application, under article 11 of the Statute of the Tribunal.

VIII. The Tribunal concludes that the Applicant has failed to establish, within the meaning of article 12 of its Statute, the existence of any new fact of a decisive nature unknown to her and to the Tribunal when Judgement No. 500 was rendered that would warrant revision of the judgement. Nor has the Applicant shown any clerical or arithmetical mistake in the judgement, or errors arising therein from any accidental slip or omission, that would warrant correction of the judgement.

IX. For the foregoing reasons, the application is rejected.

(Signatures)

Samar SEN
Vice-President, presiding

Ioan VOICU
Member

Mikuin Leliel BALANDA
Member

New York, 20 November 1992

R. Maria VICIEN-MILBURN
Executive Secretary